

SENATE BILL 161

By Norris

AN ACT to amend Tennessee Code Annotated, Section 4-4-119; Section 9-4-5101; Section 9-4-5102; Section 9-4-5103; Section 9-4-5106 and Title 9, Chapter 4, Part 56, relative to budgeting process and performance-based budgeting.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and cited as the “Tennessee Governmental Accountability Act of 2013.”

SECTION 2. Tennessee Code Annotated, Section 4-4-119, is amended by deleting the section in its entirety.

SECTION 3. Tennessee Code Annotated, Section 9-4-5101(d), is amended by deleting the subsection in its entirety.

SECTION 4. Tennessee Code Annotated, Section 9-4-5102, is amended by deleting the phrase “using performance-based program budgeting principles.” and replacing it with “using performance data and other relevant program measures.”

SECTION 5. Tennessee Code Annotated, Section 9-4-5103(b), is amended by deleting the subsection in its entirety and substituting instead the following:

(b) Any state agency subject to part 56 of this chapter shall include with its budget request the performance measures and standards required by 9-4-5606.

SECTION 6. Tennessee Code Annotated, Section 9-4-5106(a)(3), is amended by deleting the phrase “it also shall include a performance-based program budget for all state agencies subject to performance-based budgeting, including program statements and performance measures” and replacing it with the phrase “it also shall include performance measures and standards required by 9-4-5606”.

SECTION 7. Tennessee Code Annotated, Section 9-4-5601, is amended by deleting this section in its entirety and substituting instead the following.

This part shall be known and may be cited as the “Tennessee Governmental Accountability Act of 2013.”

SECTION 8. Tennessee Code Annotated, Section 9-4-5602, is amended by deleting this section in its entirety and substituting instead the following.

The general assembly finds and declares that accountability in program performance is vital to effective and efficient delivery of governmental services, and to maintain public confidence and trust in government. To maximize accountability, a system of strategic planning, program performance measures, and performance audits should be implemented to measure the effectiveness and efficiency of governmental services. It is of paramount public importance that this system encourages full and candid participation by all agencies of state government. This system will generate information necessary to inform the public fully and for the general assembly to make meaningful decisions about the allocation of scarce resources in meeting vital needs.

SECTION 9. Tennessee Code Annotated, Section 9-4-5603, is amended by deleting this section in its entirety and substituting instead the following.

The strategic planning, program performance measures, and performance review requirements of this part shall apply to all agencies unless exempted in this part or exempted by the Commissioner of Finance and Administration.

SECTION 10. Tennessee Code Annotated, Section 9-4-5604, is amended by deleting this section in its entirety and substituting instead the following.

As used in this part, unless the context otherwise requires:

(1) “Agency” or “state agency” means any unit organization of the executive department, including any official, department, board, commission, division, bureau, section, district, office, authority, committee, or council or any other unit of state government, however designated, including, without limitation,

higher education. For purposes of this part, “agency” or “state agency” shall not include the governor’s office, the judicial department, the comptroller of the treasurer, state treasurer, secretary of state, attorney general and reporter or the legislative department. For purposes of this part, “judicial department” means the court system, district attorney’s general conferences, district public defenders conference, and the office of post-conviction defender;

(2) “Baseline data” means indicators of a state agency’s current performance level, pursuant to guidelines established by the commissioner of finance and administration;

(3) “Commissioner” means the commissioner of finance and administration;

(4) “Outcome” means an indicator of the actual impact of public benefit of a program;

(5) “Output” means the actual service or product delivered by a state agency;

(6) “Performance measure” means a quantitative or qualitative indicator used to assess state agency performance, including outcome and output indicators;

(7) “Program” means a set of activities undertaken in accordance with a plan of action organized to realize identifiable goals and objectives. These activities are chosen by Finance and Administration in consultation with the agency or state agency to be measured in order to support the overall goals and objectives of the department.

(8) “Standard” means the desired level of performance of a program, measured by outcome or output.

SECTION 11. Tennessee Code Annotated, Section 9-4-5605, is amended by deleting this section in its entirety and substituting instead the following.

(a) It is the legislative intent that the requirements of this part constitute a new approach to measuring the strategic functions and operations of each department in order for the state government to operate more efficiently and effectively.

(b) The comptroller of the treasury shall have authority to employ outside consultants and entities with expertise in governmental finance and performance review for the purpose of conducting performance reviews or otherwise fulfilling the comptroller's duties under this part. The performance reviews required under this part may be conducted by a private entity selected by the comptroller, subject to the competitive bidding requirements of title 12, chapter 4.

SECTION 12. Tennessee Code Annotated, Section 9-4-5606, is amended by deleting this section in its entirety and substituting instead the following.

(a) The commissioner of finance and administration shall annually issue instructions for the strategic plans and for the development of performance measures and standards for each program.

(b) By August 15 of each year, each state agency subject to this part is required to submit to the commissioner of finance and administration, in a form to be specified by the commissioner, a draft strategic plan and proposed performance measures and standards for each program. Such state agencies shall also identify the outputs or outcomes produced by each program, baseline data associated with each performance measure, and performance standards. Performance measures and standards shall be reviewed by the commissioner of finance and administration and revised as deemed necessary by the commissioner of finance and administration.

(c) Each state agency subject to this part shall submit to the commissioner of finance and administration any documentation required by the commissioner regarding the validity, reliability, and appropriateness of each performance measure and standard and regarding how the strategic plan and the performance measures are used in management decision-making and other agency processes.

(d)

(1) Annually, at a time to be determined by the commissioner of finance and administration after the general appropriations act becomes law, state agencies may submit to the commissioner any adjustments to their performance measures and standards based on the amounts appropriated for each program by the general assembly. The chairs of the finance, ways and means committees of the senate and the house may request updated performance measures based on the increase or decrease of appropriations in the given year.

(2) At any time during the fiscal year in which a state agency, by restraining order, injunction, consent decree, settlement, or any final judgment of a court of competent jurisdiction, or by law or executive order, is required to modify its operations, or the state agency receives additional federal or other funding, the state agency may submit to the commissioner of finance and administration any necessary adjustments to its performance measures and standards.

(3) When an adjustment is made pursuant to subdivisions (d)(1) and (2), all performance measures and standards, including any adjustments made, shall be submitted to and reviewed and revised as necessary by the commissioner of finance and administration. The commissioner shall maintain the official record of adjustments to the performance measures and standards and shall update the

reports accordingly. Programs that have been eliminated or added from the report in a given year shall be indicated in the annual report or when the report is updated.

SECTION 13. Tennessee Code Annotated, Section 9-4-5607, is amended by deleting the subsection in its entirety.

SECTION 14. Tennessee Code Annotated, Section 9-4-5608, is amended by deleting this section in its entirety and substituting instead the following.

(a) The commissioner of finance and administration shall evaluate at least annually each state agency's strategic plan and program performance measures. When necessary the commissioner of finance and administration shall update each state agency's strategic plan and program performance measures. Such updates shall include comments from the state agency when necessary to explain how the program is performing.

(b) The commissioner of finance and administration may make recommendations to the governor and the finance, ways, and means committees of the senate and the house of representatives concerning the following non-exhaustive performance measure incentives or disincentives for potential inclusion in the appropriations bill:

(1) Incentives may include, but are not limited to:

(A) Additional flexibility in budget management;

(B) Additional flexibility in salary rate and position management, notwithstanding title 8, chapter 23, or any other law to the contrary;

(C) Retention of up to fifty percent (50%) of unexpended and unencumbered balances of appropriations, excluding special categories and grants in aid, that may be used for non-recurring purposes including,

but not limited to, lump-sum bonuses, employee training, or productivity enhancements, including technology and other improvements; and

(D) Additional funds to be used for, but not limited to, lump-sum bonuses, employee training, or productivity enhancements, including technology and other improvements;

(2) Disincentives may include, but are not limited to:

(A) Mandatory quarterly reports to the governor on the agency's progress in meeting performance standards;

(B) Mandatory quarterly appearances before the governor to report on the agency's progress in meeting performance standards;

(C) Elimination or restructuring of the program, which may include, but not be limited to, transfer of the program or outsourcing all or a portion of the program;

(D) Reduction of total positions for a program;

(E) Restriction on or reduction of the appropriation for the program; and

(F) Reduction of managerial salaries, notwithstanding the requirements of title 8, chapter 23, or any other law to the contrary.

SECTION 15. Tennessee Code Annotated, Section 9-4-5609, is amended by deleting this section in its entirety and substituting instead the following.

(a) Beginning August 15, 2013, and each year thereafter, each state agency subject to this part, shall submit a draft strategic plan and the agency's programs chosen for the program performance measures to the department of finance and administration for review, modification, and approval. Each strategic plan and program performance plan shall be submitted to the general assembly and the governor not later than

September 30 of each year and shall cover the fiscal year in effect as of the date of the report.

The programs report shall include, but not be limited to, the following matters:

1. A clear statement of the purpose for each program.
2. A description of the program, when such information is needed to explain the program.
3. The funding amount of each program, when such information is identifiable by agency.
4. The outcomes or outputs produced by each program.
5. The historical trends of outputs or outcomes of the program, when such information is available.

(b)

(1)

(A) The Tennessee higher education commission shall submit to the commissioner of finance and administration a single strategic plan, with the advice of the University of Tennessee, the state university and community college system, and the Tennessee student assistance corporation.

(B) The comptroller of the treasury, state treasurer, secretary of state, and attorney general and reporter shall prepare their strategic plans separately.

(C) The administrative office of the courts shall prepare a strategic plan separately on behalf of the court system. Such plan shall include the court system, the district attorneys general conference, the



district public defenders conference, and the office of post-conviction defender.

(D) The joint legislative services committee shall prepare a strategic plan separately on behalf of the legislative department.

(2) Each strategic plan shall be submitted to the general assembly and the governor not later than September 30 of each year and shall cover the fiscal year in effect as of the date of the report.

SECTION 16. Tennessee Code Annotated, Section 9-4-5612, is amended by deleting this section in its entirety and substituting instead the following.

The director of the office of legislative administration shall develop and submit to the joint legislative services committee proposed instructions for the development of performance measures for the legislative department. The joint legislative services committee shall review such proposed instructions, may revise or amend the proposed instructions, and shall adopt final instructions for the development of such performance measures.

SECTION 17. Tennessee Code Annotated, Section 9-4-5613, is amended by deleting this section in its entirety.

SECTION 18. Tennessee Code Annotated, Section 9-4-5614, is amended by deleting this section in its entirety.

SECTION 19. This act shall take effect upon becoming law, the public welfare requiring it.